

Juridical Review of Multiple Certificate Dispute Resolution as Proof of Land Ownership Rights In Pati Regency

Brian Rizqi Prasetya

Universitas Islam Sultan Agung, Semarang, Indonesia, E-mail:
masbrian875@gmail.com

Abstract. Soil is very closely related to human life. Everyone certainly needs land, in fact land has such an important position for humans, that it gives rise to the desire to control and own it. This sense of wanting to own will ultimately give rise to land disputes. One of the problems is the emergence of double (overlapping) certificates. Double certificates are certificates for the same plot of land. So, one plot of land with 2 (two) or more certificates with different data. This type of research is sociological juridical law by means of a survey, namely research that takes data directly from the population using data collection tools, namely questionnaire interviews, after which the data is taken and processed to obtain conclusions using a deductive method. Meanwhile, if we look at its nature, this research is descriptive, namely research that explains in the form of clear and detailed sentences. Factors that cause double certificates include, a. Land registration map not yet available. b. BPN does not yet have a single map, c. Land/location sizes overlap. d. there is an element of fraud. Resolving Dual Certificate Issues can be done through mediation or litigation (court), and the settlement is taken by the Pati City Land Office.

Keywords: Certificate; Dispute; Land; Multiple; Proof; Resolution.

1. Introduction

Based on Law number 5 of 1960 concerning Basic Agrarian Principles Regulations, hereinafter abbreviated to UUPA, Article 19 states that to create land legal certainty, the Government shall carry out land registration. Land that has been registered is then given proof of land rights, which is strong evidence of land ownership (land title certificate).

A certificate is strong and authentic evidence. A certificate is a form of guarantee of legal certainty for the certificate holder as perfect evidence as long as the opposing party cannot prove otherwise. Along with the high value of land, many people are making every effort to obtain proof of land ownership with fake

certificates, where these certificates have data that does not match what is in the land book. The number of certificates is quite large, giving rise to concern.¹

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This administrative law flaw gives rise to duplicate certificates because these certificates are not mapped on the land registration map or map of the area. The land under dispute cannot be managed by the certificate holder or other parties. The above conditions are very detrimental from an economic perspective. This land cannot be managed or used as collateral in a bank. This double certificate problem must be handled seriously in order to achieve economic stability in society.

In connection with the description above to focus the research, the problems are limited to First, factors that cause disputes over multiple certificates as proof of land ownership (overlapping) at the Pati Regency Land Office?, Second How Process for resolving disputes over multiple certificates as proof of land ownership at the Pati Regency Land Office?

2. Research Methods

A research method is a way of working to obtain scientific knowledge or knowledge. This research method is a systematic way of compiling knowledge so that it can be used to understand the object of this writing. To achieve the results aimed at, this research uses sociological juridical legal research methods. The approach method used for this research uses a sociological juridical approach. This sociological juridical approach emphasizes research which aims to obtain legal knowledge empirically by conducting research on the object directly. The sociological juridical approach referred to in this research is research that examines people's behavior that arises from interacting with the system of norms that apply in society. Apart from that, this sociological juridical approach relates between legal rules and reality in society, the relationship between legal rules in terms of reality in society and legal reality in society in terms of legal rules. This sociological juridical approach technique is used to analyze and find answers to legal problems according to the target object. The Sociological Juridical Approach aims to see reality by applying the law (Das Sein).

¹Elza Syarief, 2012, *Resolving Land Disputes Through Special Land Courts*, Gramedia, Jakarta, p. 47

3. Results and Discussion

3.1. Juridical Review Of Double Certificate Dispute Resolution As Proof Of Land Ownership Rights in Pati District

3.1.1 Factors that cause double (overlapping) certificates at the Pati City Land Office

Soil is a natural resource that has enormous utility for human survival. Land is a source of livelihood and income for humans, in fact land cannot be separated from the time a human is born until the human dies. Land is considered a high-value and special asset that encourages everyone to own it. Land is one of the absolute human needs, meaning that human life is influenced and determined by the existence of land.²

The existence of disputes in the land sector can give rise to prolonged conflicts between members of the disputing community, this conflict can even reach the respective heirs of the dispute, sometimes conflicts regarding the land sector can also give rise to many victims involved in it.

Along with the high value of land, many people are making every effort to obtain proof of land ownership with fake certificates, where these certificates have data that does not match what is in the land book. The number of certificates is quite large, giving rise to concern. This falsification of certificates occurs because it is not based on the correct basis of rights, such as the issuance of certificates based on falsified land ownership certificates, other forms in the form of National Land Agency (BPN) stamps and falsification of land data. In practice, certificate holders without a certain period of time can lose their rights, this happens if another party files a lawsuit which results in cancellation of the certificate and causes administrative legal defects.³

A dispute is a conflict, dispute, or dispute that occurs between one party and another party and/or between one party and various parties relating to something of value, whether in the form of money or objects.⁴

According to Mrs. Rr. Diah Pratiwi Kusumaningrum, a double certificate dispute over land is an incident where a plot of land has two land certificates, and the land certificates are owned by different parties and these parties feel disadvantaged by each other. This double certificate dispute usually occurs due

²J. Andi Hartanto, 2014, *Land Law Characteristics of Buying and Selling Land Where Land Rights Have Not Been Registered*, Laksbang Justitia, Surabaya, p. 9

³Elza Syarief, 2012 *Resolving Land Disputes*, PT. Gramedia, Jakarta, p. 21.

⁴Salim, 2012, *Mining Dispute Settlement Law in Indonesia*, Pustaka Reka Cipta, Mataram, p. 221

to an administrative error by the National Land Agency (BPN) in carrying out data collection or land registration on a land object which results in the issuance of overlapping land certificates, either partially or completely, on someone else's land.

Double certificates often occur in areas that are still empty, not yet built and in city border areas where there are no land registration maps for these locations. There are several factors that cause double certificates.⁵

- a. When measurements or research are carried out in the field, the applicant intentionally or unintentionally indicates the wrong location of the land and boundaries.
- b. The existence of a letter of evidence or acknowledgment of rights has later been proven to contain untruths, forgeries or is no longer valid.
- c. For the area in question there is no land registration map available.

To prevent the occurrence of duplicate certificates, the National Land Agency has programmed the procurement of land registration maps. However, bearing in mind that the procurement of land maps requires funds and time, the procurement is carried out in stages using a village-by-village measurement approach, in accordance with the provisions of Government Regulation Number 10 of 1961 dated 23 March 1961, concerning land registration.

The factor that arises from the Subdistrict Office is that there is no administrative action to record in the Land Ownership Taxpayer Register Book regarding land that has already been certified, so that sometimes the Subdistrict Office issues a second Land History Certificate for land that has already been certified. The second Land History Certificate is then used to apply for a new certificate. There are still many people who do not report legal problems that happen to them.⁶

3.1.2 Resolving the Double Certificate Problem at the Pati City Land Office

The issuance of land rights certificates must be carried out carefully, carefully and correctly to avoid overlaps so that legal certainty is truly obtained by the rights holders whose names are listed on the certificate. Meanwhile, in the disputed land, certificates have been issued twice with different types of rights by the Pati City Land Office, so there has been overlapping certificates on the same plot of land.

⁵Ali Achmad Chomzah, 2004, Land Law, Granting Rights to State Land and Certificate Land Law Series and Problems, Pustak Achievement, p.61

⁶Maria SW Sumarjono, 2010, Agrarian Law, Andi Offset, Yogyakarta, p. 26.

So, to resolve land cases, on March 21 2016 the Government through the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency has stipulated Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of National Land Agency Number 11 of 2016 concerning Settlement of Land Cases. This ministerial regulation comes into force on the date of promulgation, namely, March 14 2016.

That the resolution of double certificate cases can be done through 2 (two) steps, this is in accordance with the Ministerial Regulation concerning Settlement of Land Cases which can be done through 2 (two) steps, namely through mediation or litigation (court). The two steps that have been regulated in the Ministerial Regulation concerning Settlement of Land Cases, can be taken by the Pati City Land Office to resolve every double certificate case in Pati City.

A. Settlement of Double Certificate Cases Through Mediation

Based on the provisions of Article 1 point 7 of the Ministerial Regulation concerning Settlement of Land Cases, mediation is a method of resolving disputes and conflicts through a negotiation process to obtain agreement between the parties with the assistance of a mediator. As for mediators, based on the provisions of Article 1 point 8 of the Ministerial Regulation on Settlement of Land Cases, a mediator is a party who assists the parties in the negotiation process in order to seek various possible resolutions of disputes or conflicts without using the method of deciding or forcing a resolution.

Mediation resulted in an agreement between the parties where one of the parties was willing to relinquish his rights and then requested that his rights to land be canceled through the mechanism regulated in the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 9 of 1999 concerning Procedures for Granting and Cancellation of Land Rights. State and Management Rights.

However, if one of the parties refuses to carry out mediation then the settlement is left to the parties in accordance with the provisions of the laws and regulations. In accordance with the provisions of statutory regulations, a party who refuses mediation can file a lawsuit in the district court using a civil court process or a lawsuit in the State administrative court.

B. Settlement of Double Certificate Cases Through Litigation (Court).

In Government Regulation Number 24 of 1997 and the system used, which in essence has been stipulated in the Basic Agrarian Law, namely that land registration is carried out in order to provide guarantees of legal certainty in the land sector and that the publication system is a negative system, but which

contains elements positive, because it will produce letters of proof of rights which act as strong evidence.⁷

The process for resolving multiple certificates at the PTUN is the same as the process for resolving other claims submitted to the PTUN. Judges in deciding disputes are assessed from the evidentiary aspect, because the facts and events involved in the case can be known from the evidence submitted by the parties to the dispute.⁸Regarding the judge's consideration which is one of the most important aspects in determining the realization of the value of a judge's decision which contains justice and contains legal certainty, so the judge's consideration must be addressed carefully, well and carefully.

The resolution of the Double Certificate issue must be carried out through a Court mechanism with a note that if this problem cannot be resolved through mediation at the Pati City Land Office, and the parties are given the opportunity to resolve it through court, and concerns legal decisions that can be applied to resolve the double certificate dispute by a judge. The court basically shows that before handing down a decision the judge carries out research in the context of legal discovery, accompanied by one of the parties to the dispute disputing the authenticity of the documentary evidence submitted by the opposing party, then the judge can examine the rebuttal and consider the final decision regarding its evidentiary value.

4. Conclusion

Factors that cause double (overlapping) certificates at the Pati City Land Office include: a. There is no land registration map yet. b. BPN does not yet have a single map, c. Land/location sizes overlap. d. There is an element of fraud which is usually caused by the buyer's negligence in delaying the production of the certificate which is exploited by unscrupulous sellers to take it back illegally. The process for resolving multiple certificate issues at the Pati City Land Office can be carried out in 2 (two) steps including: Through mediation or litigation (court), and the steps that have been regulated in the Ministerial Regulation on Settlement of Land Cases, can be taken by the Pati City Land Office to resolve every double certificate case in Pati City. Legal consequences for interested parties due to the existence of double certificates due to the legal settlement carried out by the Pati City Land Office that the status of land rights is gray (unclear).

⁷Ricardo J Sorongan, *Juridical Impact on the Issuance of Multiple Certificates by the National Land Agency (BPN)*. Journal. *Lex Et Societatis*, Vol. III/No. April 3, 2015, p. 7

⁸Bagali and Deky Purwanto, *Juridical Study of Multiple Certificate Land Dispute Resolution*. *Lex Privatum Journal*, Vol. III No. October 4, 2015, p. 83

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